

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
THE PROCTER & GAMBLE COMPANY,	:	1:08-CV-01532 (WHP) (THK)
	:	
Plaintiff,	:	
	:	
- against -	:	NOTICE OF CROSS-
	:	MOTION FOR SUMMARY
PLAYTEX PRODUCTS, INC.,	:	JUDGMENT OF NO RES
	:	JUDICATA
	:	
Defendant.	:	Electronically Filed
	:	
_____	x	

PLEASE TAKE NOTICE THAT Defendant Playtex Products, Inc. (“Playtex”) will cross-move this Court before the Honorable William H. Pauley, III, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York 10007, on the 11th day of July, 2008, at 11:00 a.m., or as soon thereafter as counsel can be heard, for an Order pursuant to Fed. R. Civ. P. 56, granting Playtex summary judgment: (i) dismissing P&G’s First Claim for Relief in the Amended Complaint, entitled “Declaratory Judgment – *Res Judicata*”; (ii) on P&G’s Second Affirmative Defense to Playtex’s counterclaim on the ground that *res judicata* does not bar Playtex’s counterclaim in this action; and (iii) granting Playtex such other and further relief as the Court deems just and proper.

This motion is supported by: (1) Playtex’s Memorandum in Opposition to P&G’s Motion for Summary Judgment and In Support of Playtex’s Cross-Motion for Summary Judgment; (2) Playtex’s Statement Pursuant to Local Rule 56.1; and (3) the accompanying declarations, and exhibits annexed thereto, of Veronica C. Abreu, Keith Edgett, Julie Elkinton, and John Patrick Finn.

Dated: June 2, 2008

DAVIS POLK & WARDWELL

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